

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Gregory Haughton

Date application filed with the Town Clerk: April 13, 2007

Nature of request: A Special Permit to construct a supplemental apartment under Section 5.011 of the Zoning Bylaw, in the basement of an existing house

Address: 163 Northampton Road (Map 14A, Parcel 138, R-N Zoning District)

Legal notice: Published on May 9 and 16, 2007 in the Daily Hampshire Gazette and sent to abutters on May 11, 2007

Board members: Tom Simpson, Barbara Ford and Russ Frank

Submissions: The petitioner submitted a packet of information with the application which contained the site plan, the floor plan of the proposed apartment, the westerly elevation showing the two means of egress, the management plan, photos of the house, a picture of the proposed outdoor lighting fixtures, and a map of the neighborhood showing other multi-family houses nearby.

The zoning staff assistant submitted a memo dated May 18, 2007 reviewing the Zoning Bylaw requirements of a supplemental apartment and dimensional requirements for a lot in an R-N district.

Site Visit: May 23, 2007

The Board met the applicant at the site. They observed the following:

- A single family house located on a heavily traveled street;
- A long thin lot, non-conforming with the Bylaw, with 80 feet of frontage;
- Screening between most of the homes nearby – either hedges or fencing;
- Amherst College athletic fields located directly across the street;
- A driveway and turn around area large enough for several cars;
- The location of the proposed fence which will shield the proposed supplemental apartment from the street;
- The location of the apartment's two means of egress, from the basement on the westerly side of the house;
- The common entrance area in the basement, which will be shared with the main house upstairs;
- The small, studio-sized outline of the proposed apartment, with bath, kitchen area and living/bedroom area;
- The storage space for the apartment located under the deck in the back of the house;
- The large backyard, nicely landscaped, and the location of additional shrubbery to help shield the apartment.

Public Hearing: May 24, 2007

Mr. Haughton represented himself at the hearing. He gave the following information:

- He is applying for a one-unit efficiency apartment in the basement of his owner-occupied home;
- The apartment will be an open studio type, with an area of about 385 square feet;
- The size and layout will be similar to those supplied by UMass for their graduate students;
- The entrance area will be shielded by a 6 foot high stockade fence on the south and west sides, beginning about 45 feet back from the front property line;
- The fence will be made from cedar, left natural or stained a neutral color, or made from a composite material of a neutral color (dark green, charcoal or grey);
- The fence will stop just beyond the apartment entrance and will run along the western property line;
- Pictures of the proposed fence in relation to the house were submitted to the Board;
- The driveway is 80 feet long and 14 to 22 feet wide, running along the easterly side of the property;
- There is a 25' x 23' parking and turn around area in the front of the house, sufficient for two cars, plus at least two more spaces along the driveway, providing the four spaces needed for two dwelling units as required in the Zoning Bylaw;
- The parking area is 8 feet from the front of the house;
- The applicant will be responsible for all trash and recycling generated by the apartment occupants; he currently contracts with a hauler for weekly pickup as described in the submitted Management Plan and stores the barrels along the driveway near the house;
- The house will be owner occupied, and the apartment will be rented to just one person, or used for visiting in-laws in the summer time;
- There will be no signs;
- The apartment will have extra storage under the deck, which can be accessed via the common exit in the back of the house;
- The apartment window area exceeds the 8% of floor area required by the Building Code, plus more than 4% of the window space can be opened;
- There are a variety of multi-family housing units along Northampton Road, but his house will maintain the single family character that it has.

Ms. Ford asked whether the tenant will have use of space outdoors on the site. The petitioner responded that the fenced area is about 20 x 28 feet around the main entrance to the apartment and that can be used by the tenant.

Mr. Frank asked about the cut off valves for water and the utility commuter box located within the apartment. Would the home owner have access to them in an emergency? The petitioner said that the main utility box and main water valves are located outside of the apartment, so that they can be accessed in an emergency without going into the apartment.

There was discussion about the outdoor lighting. The Board emphasized that the walkway should be illuminated. The petitioner said that he will put lighting both outside the fence along the walkway in the front and inside the fence near the slope or steps down to the apartment entrance. The walkway lights will be 3 feet off the ground and below the fence line, so that the neighbors will not see the lights. The applicant said that he showed the plan to his neighbor to the west, and she had no objection.

The Building Commissioner, Bonnie Weeks, said that the light picture that was submitted is not downcast. The Board asked the petitioner to resubmit the site plan showing the location of the outdoor lighting and the type of lighting attached to the building.

Mr. Frank made a motion to close the evidentiary portion of the hearing. Ms. Ford seconded the motion, and the vote was unanimous to close the hearing.

Public Meeting:

The Board discussed the proposed parking on site, particularly in relation to exiting the site into the heavily traveled Northampton Road. They concluded that, since the proposed supplemental apartment is so small, one person and one car only should be associated with the unit. The limit on the number of occupants of the apartment and the limit on the number of cars allowed will be reflected in the conditions of the permit.

The Board also determined that, if they were to approve this proposal, some parking aspects required by the Zoning Bylaw would need to be waived under Section 7.9 of the Bylaw. The compelling reasons for the waivers would be for reasons of safety (cars not backing out into the very busy Northampton Road) and site design (the lot is narrow, thus limiting the parking and turnaround area.) The waivers proposed were to:

1. Limit the number of vehicles associated with the apartment to one (1), waiving Section 7.000 of the Bylaw;
2. The parking spaces will not be lined, waiving Section 7.102 of the Bylaw requiring clear delineation of the parking areas;
3. Allow the parking to occur within 8 feet of the house, waiving Section 7.101 of the Bylaw.

Mr. Frank made a motion to waive the above 3 parking requirements, Ms. Ford seconded the motion, and vote was unanimous to grant parking-related waivers by limiting the number of vehicles on site to three(3), not requiring the parking spaces to be lined, and to allow parking within 8 feet of the house.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because there are other multifamily houses in the area, and the supplemental apartment easily fits into this large house.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because the new exterior lighting will be downcast or low on the ground and there will be a fence and additional shrubbery to shield the neighbors from the new unit.

10.383 and 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets because the conditions of the permit will limit the number of cars regularly on the property to three, giving ample room for cars to turn around and enter Northampton Road facing forward. The driveway and parking area is large enough for extra cars for visitors, so that they can park on site and leave the premises safely.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because the petitioner's plans match the requirements of the Zoning Bylaw and the Building Code, and much of the initial work has been carefully completed already.

10.386 – The proposal ensures that it is in conformance with the Parking and Sign regulations of the town because no sign other than street numbers will be needed, and there is adequate parking for the number of cars allowed by the permit.

10.389 – The proposal provides adequate methods of disposal and/or storage for sewage, refuse, recyclables and other wastes because the premises is serviced by Town water/sewer, and the petitioner contracts for weekly waste/recycling pickup as described in his Management Plan.

10.391, 10.392 and 10.395 – The proposal protects unique or important natural, historic or scenic features because the historic features of the Victorian house will be retained and the yard is already nicely landscaped. A fence on two sides and additional shrubbery will screen adjacent residential uses.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because all new exterior lighting will be downcast, or low to the ground, screened by the fence.

10.397 – The proposal provides adequate recreational facilities, open space and amenities for the proposed use because the supplemental apartment will have its own private outdoor space, and the remainder of the back lot is open, with a well designed flower garden.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants of the proposed apartment and provides additional downtown housing for the Town.

Public Meeting – Zoning Board Decision

Mr. Simpson made a motion to APPROVE the Special Permit for a supplemental apartment, with conditions. Ms. Ford seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to GRANT a Special Permit to construct a supplemental apartment under Section 5.011 of the Zoning Bylaw, in the basement of an existing house at 163 Northampton Road (Map 14A, Parcel 138, R-N Zoning District), as submitted in the application of Gregory Haughton, with conditions.

THOMAS SIMPSON

BARBARA FORD

RUSSELL FRANK

FILED THIS _____ day of _____, 2007 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2007.
NOTICE OF DECISION mailed this _____ day of _____, 2007
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2007,
in the Hampshire County Registry of Deeds.

**Town of Amherst
Zoning Board of Appeals**

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit to construct a supplemental apartment under Section 5.011 of the Zoning Bylaw, in the basement of an existing house at 163 Northampton Road (Map 14A, Parcel 138, R-N Zoning District), as submitted in the application of Gregory Haughton, subject to the following conditions:

1. The tenant shall be provided with a locked storage area.
2. There shall be a six-foot high, L-shaped stockade fence constructed of cedar or a dark-colored composite, in order to screen the tenant area from the road and neighbors.
3. The fence shall follow along the westerly border, beginning 45 feet from the front property line and continuing north to at least the main entrance to the apartment, as shown on the plans submitted to the Board at the hearing.
4. Reflective street number signs that are visible in both directions shall be located near the sidewalk along Northampton Road.
5. The principal dwelling shall be owner occupied.
6. There shall be no more than one occupant in the accessory apartment.
7. Only one vehicle shall be permitted for the accessory apartment.
8. Exterior lighting shall be downcast and shielded by the fence or otherwise so as to avoid shining directly into any area beyond the property boundary.
9. The apartment shall be built and managed according to the plans approved by the Board at the public hearing May 24, 2007.
10. Prior to issuance of an occupancy permit, the petitioner shall submit a scaled drawing of the site plan, showing all exterior lighting, the apartment walkway, landscaping and all other exterior features.

THOMAS SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE